

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 75900

Rebecca Matthews

6746 Danville Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on June 30, 2010, for a Hearing on a citation for violations of the Baltimore County Zoning Regulations (BCZR) section 102.1, 1B01.1A, 101, Zoning Commissioners Policy Manual (ZCPM) section 431, failure to remove non-permitted snowball stand, failure to cease non-permitted home occupation from residential property zoned DR 5.5 known as 6746 Danville Avenue, 21222.

On June 3, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jerry Chen issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$8,800.00 (eight thousand eight hundred dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on April 19, 2010 for removal of commercial vehicle, illegal home occupation, remove snowball stand on trailer from residence, cease all operation of selling snowballs business from residence immediately. This Citation was issued on June 3, 2010.

B. Photographs in the file show a shed with cream-colored siding and a roof, on a trailer, parked in the front yard of this single-family residence. The word "SNOWBALLS" is seen on one side in big red letters. A large red, white and blue flag that says "OPEN" is fastened on a pole from the front. Photographs show a dry-erase board on the front of the stand next to the drop-down service window; which says "SnowBalls" and lists sizes and prices, ranging from \$1.00 to \$2.50, and lists about two dozen flavors. Notes in the file by Inspector Jerry Chen state that re-inspection on June 28, 2010 found the snowball stand operation still functioning, with the "OPEN" flag flying, at 6:40 p.m. Photographs in the file taken on June 28, 2010 show at least two adults standing in the yard and show the service window open.

C. This property is zoned Density Residential (D.R.) 5.5. The Baltimore County Code and Baltimore County Zoning Regulations significantly restrict the non-residential uses of properties in D.R. zones. BCZR Section 102.1 ("No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations..."); BCC Article 32, Title 3 (Planning, Zoning and Subdivision Control; Zoning); BCZR Section 1B01.1, General Use regulations in D.R. Zones. The zoning regulations do not permit use of residential property in a D.R. Zone for a carry-out restaurant or a fast-food restaurant, and do not permit the operation of a business on this residential property. Respondent's use of this property to operate a commercial snowball stand clearly violates the County's zoning regulations, and this Citation will be enforced.

D. The commercial snowball stand on a trailer cannot be parked or stored in the front yard of this residential property, even if it is not operating a retail business. BCZR Section 431.1 (Parking of Commercial Vehicles on Residential Property).

E. Because compliance is the goal of code enforcement, the civil penalty will be substantially reduced if the violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$8,800.00 (eight thousand eight hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$1,000.00 (one thousand dollars) if the violations are corrected by July 16, 2010, with the business activity ceased and the commercial stand and trailer removed from the property.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 9th day of July 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer